IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Hu, et al.	Art Unit	: 2129
Serial No.	: 10/624,860	Examiner	: Peter D. Coughlan
Filed	: July 21, 2003	Conf. No.	: 6527
Title	: BUSINESS SOLUTION MANAGEMENT (BSM)		

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

In support of the Notice of Appeal filed August 14, 2008, appealing the Examiner's Final Rejection of each of Claims 1-3 and 5-31 mailed March 26, 2008, and in response to the Examiner's Answer mailed December 22, 2008, Appellants hereby provide the following remarks.

I.   **STATUS OF CLAIMS**

Claims 1-3 and 5-31 are pending.

Claims 1-3 and 5-31 are under consideration.

Claim 4 has been cancelled.

Claims 1-3 and 5-31 stand rejected.

Claims 1, 25, and 29 are in independent form.

The final rejection of Claims 1-3 and 5-31 is being appealed. Claims 1, 25, and 29 are involved directly in the appeal. Claims 2-3, 5-24, 26-28, and 30-31 are not directly involved in the appeal but rather are involved only by virtue of their dependency from one of Claims 1, 25, or 29. Although, this indirect involvement by the dependent claims should not be interpreted as an admission or position that the dependents represent obvious modifications to the respective independent claim. Instead, Appellants believe that the dependents are allowable at least because the respective independent is allowable.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3, 7, 15, 20, 21, 25, 28, 29, and 30 stand finally rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. This rejection is being appealed.

Claims 1-3 and 5-31 stand finally rejected under 35 U.S.C. § 101 for nonstatutory subject matter. This rejection is being appealed.

Claim 29 stands finally rejected under 35 U.S.C. § 102(b) as anticipated by "UML Distilled: A Brief Guide to the Standard Object Modeling Language," Martin Fowler and Kendall Scott (2d. ed. 1999) ("*Fowler*"). This rejection is being appealed.

Claims 1 and 25 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fowler* in view of U.S. Patent Application Publication No. 2002/0174005 to Chappel ("*Chappel*"). This rejection is being appealed.

Claims 30 and 31 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fowler* in view of U.S. Patent No. 6,339,832 to Bowman-Amuah ("*Bowman*"). This rejection is being appealed.

Claims 2, 3, 5-24, and 26-28 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of *Fowler* and *Chappel* in view of *Bowman*. This rejection is being appealed.

III. ARGUMENT

Appellants respond to the Examiner's Answer mailed December 22, 2008 ("Answer"), by respectfully noting that the Answer suffers from the same defects as the prior Office Actions. For example, the Answer improperly broadens the teachings of the references used in rejecting the pending claims past that which they disclose or suggest. Further, the Answer ignores portions of the present Application in rejecting the claims for alleged deficiencies in its disclosure. Finally, the Answer misinterprets the controlling law in rejecting the claims as ineligible for patenting. Accordingly, for the reasons below and those provided in the Appeal Brief, Appellants respectfully request reversal of the final rejection of Claims 1-3 and 5-31.

A. Claim Rejections – 35 U.S.C. § 101

1. Claims 1-3 and 5-31 provide a practical application.

Claims 1-3 and 5-31 stand finally rejected under § 101 for nonstatutory subject matter. As an initial matter, in rejecting the claims as directed to nonstatutory subject matter, the Answer states that "Software provides no practical application." Answer at 38. Appellants respectfully disagree and submit that this statement is irreconcilable with U.S. patent law, U.S. patent practice, or indeed, the U.S. Patent Office's own guidelines regarding § 101. To be clear, the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility instruct that "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory." Guidelines at p. 53 (emphasis added) (M.P.E.P. § 2106.01(I)) (citing In re Lowry, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994)). Thus, the Patent Office's own guidelines contemplate patent protection for (and thus the practical applications of) software inventions.

Further, such a statement ignores that *thousands* of U.S. patents have been issued directed to software, such as U.S. Patent No. 7,484,193 ("Method and *software* for predicting the timing delay of a circuit path using two different timing models"); U.S. Patent No. 6,801,875 ("Methods, systems, and *software* for performing measurements"); and U.S. Patent No. 5,034,899 ("*Software* tool for automatically generating a functional-diagram graphic"), to name

Applicant : Hu, et al.
Serial No. : 10/624,860
Filed : July 21, 2003
Page : 5 of 15

Attorney Docket No. 19797-0005001 / 2002P00234 US01

but a few. And while Appellants recognize that "subject matter that is not a practical application or use of an idea, a law of nature or a natural phenomenon is not patentable[,]"[1] the above-quoted statement in the Answer cannot be read to suggest that each of the thousands of aforementioned applications directed to software issued in contravention to this mandate. Accordingly, to the extent the current claim rejections under § 101 are maintained simply because the present Application and claims are directed, at least in part, to software, Appellants respectfully submit that such rejections are improper and should be reversed.[2]

In any event, the Answer's view that the present claims are not directed to a practical application is simply incorrect. For instance, the Application makes clear in the Summary that:

> The BSM system may allow an entity to engage in start-to-finish automated business solution management. The BSM system may provide a comprehensive methodology roadmap and tools that can integrate a proposed business design and technology engineering activities. The BSM system may include integration of backend business processes, integration of business processes across multiple collaborating enterprises, and support for these integration and collaboration goals.

Application at [0009].[3] In sum, the present Application has a clearly definable practical application, namely, as a system utilized by a business enterprise to model possible solutions to problems encountered along a business process. Such modeling provides advantages such as reduced costs, improved efficiency, improved responsiveness, and increased revenue for the business enterprise. Appellants respectfully suggest that merely ignoring such a practical application, as the Answer does, cannot provide a proper basis for the present § 101 rejection. Accordingly, Appellants respectfully request reversal of the final rejection of Claims 1-3 and 5-31 under § 101 for at least these reasons.

---

[1] M.P.E.P. § 2106(IV)(A) (citing, for example, *Rubber-Tip Pencil Co. v. Howard*, 87 U.S. (20 Wall.) 498, 507 (1874)).

[2] The Answer's statement that "software per se [is viewed] as non-statutory subject matter" is also untenable in light of the aforementioned guidelines.

[3] *See also* Application at [0014]:

> The BSM system described herein may dramatically increase a business entity's probability for success, reduce or improve its time-to-value-added cost-of-ownership and return on investment (ROI), and improve its degree of innovation and agility. The BSM system may effectively and efficiently reduce a business enterprise's per initiative implementation costs across the entire spectrum of initiatives. Reduced costs may translate into additional product revenues from the company's savings in implementation or more competitive pricing.

2. Claim 25 is directed to patentable subject matter under *Bilski*.

Appellants further note that Claim 25 is directed to statutory subject matter in light of the Federal Circuit's recent holding in *In re Bilski*.[4] Relying on existing decisions by the U.S. Supreme Court, the *Bilski* court held that "[a] claimed process is . . . patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *In re Bilski*, 545 F.3d 943, 954 (Fed. Cir. 2008) (citations omitted). Claim 25, which is drawn to a "computer-implemented method," meets **both** requirements of *Bilski*, and is thus patent eligible.

First, Claim 25 is "tied to a particular machine or apparatus." Indeed, the express claim language of this method claim makes clear that it is a "computer-implemented method." As the *Bilski* court made clear, "a claim that is tied to a <u>particular machine</u> . . . does not pre-empt all uses of a fundamental principle in any field but rather is limited to a particular use, a specific application." *Bilski*, 545 F.3d at 957 (emphasis added). Thus, pending Claim 25 stands in stark contrast to the claim considered, and ultimately rejected by the court, which recited *no* structure in which to implement the method. *See id.* at 949. Further, such a recitation in Claim 25 that requires each and every step of the method to be implemented on a computer meets *Bilski*'s condition that "the use of a specific machine . . . must impose meaningful limits on the claim's scope to impart patent eligibility." *Id.* at 961. In sum, that Claim 25 is tied to a particular machine, in this case, a specific computer, is sufficient under *Bilski* to render this claim patent eligible. *See id.* ("[A]n applicant may show that a process claim satisfies § 101 either by showing

---

[4] The *Bilski* court only addressed the eligibility of patent claims drawn to a "process." *See In re Bilski*, 545 F.3d 943, 951 (Fed. Cir. 2008). Independent Claims 1 and 29 are drawn to a system and article, respectively. Thus, Appellants respectfully submit that *Bilski*'s holding is inapplicable to Claims 1 and 29, which, in any event, are directed to statutory subject matter. As noted above, these claims (as well as Claim 25) have a practical application. Further, and more fundamentally, the "system" and "article" of Claims 1 and 29 represent patent-eligible subject matter by their very nature. *See* 35 U.S.C. § 101. For example, the system of Claim 1 includes software stored in a computer readable medium, a user-accessible graphical user interface, and first and second data repositories. The Application makes clear that, for instance, the database layer 106 of the BSM system "has a series of object repositories 250 and information storage structures." Application at [0059]; *see also* Fig. 2. Further, the claimed BSM system "can be realized in digital electronic circuitry, integrated circuitry, specially designed ASICs (application specific integrated circuits), computer hardware, firmware, software, and/or combinations thereof." *Id.* at [00721]. With regards to Claim 29, the express language of this claim makes clear that the article is transformative of "one or more machines" by causing such machines to perform the claimed operations. Claims 1 and 29, therefore, are directed to patent eligible subject matter under the statute and applicable judicial test.

Applicant : Hu, et al.
Serial No. : 10/624,860
Filed : July 21, 2003
Page : 7 of 15

Attorney Docket No. 19797-0005001 / 2002P00234 US01

that his claim is tied to a particular machine, or by showing that his claim transforms an article.").

To be sure, however, Claim 25 also is patent eligible under *Bilski*, because "it transforms a particular article into a different state or thing." *Bilski*, 545 F.3d at 954. As an initial matter, Appellants respectfully submit that the data being transformed by the recited steps of Claim 25 represent underlying physical objects. *See id.* at 962-63. For example, the Application makes clear that "technology objects" represent the technology components of the business solution management system. *See* Application at [0053]. Such components include physical objects such as Hardware and Networks 120, including architecture 122 and infrastructure 124. *See id.* at Fig. 1; [00052]. Such hardware and networks, as the Application makes clear, are implemented as "digital electronic circuitry, integrated circuitry, specially designed ASICs (application specific integrated circuits), computer hardware, firmware, software, and/or combinations thereof." *Id.* at [0707]. Thus, at least the technology objects recited in Claim 25 are electronic representations of physical objects as required by *Bilski*.

Further, Claim 25 includes several transformative aspects, such as:

- "allowing a user to design a business solution with user parameters, instantiated user-selectable, pre-defined business process objects, and instantiated user-selectable, pre-defined technology objects

- "allowing the user to maintain and modify the business solution subsequent to implementation of the business solution, the implementation based, at least in part, on a current state of the business process objects and the technology objects"

- "persisting the modified business solution for subsequent presentation through a graphical user interface"

- "providing the instantiated user-selectable, pre-defined business process objects to a first data repository"

- "providing the instantiated user-selectable, pre-defined technology objects to a second data repository"

Any one of these transformative aspects demonstrates sufficient transformation of, for example, the claimed business solution as to warrant § 101 eligibility under *Bilski*; taken as a whole, there can be no doubt. The *Bilski* court, relying on its prior decision in *In re Abele*, held

Applicant : Hu, et al.
Serial No. : 10/624,860
Filed : July 21, 2003
Page : 8 of 15

Attorney Docket No. 19797-0005001 / 2002P00234 US01

that "the electronic transformation of the data itself into a visual depiction . . . was sufficient [to satisfy the "transformation" prong of the test]; the claim was not required to involve any transformation of the underlying physical object that the data represented." *Bilski*, 545 F.3d at 963 (emphasis added). Claim 25 performs *exactly* the type of transformation approved by the *Bilski* court by allowing the design of a business solution; maintenance and modification of the business solution; and presentation of the business solution to a user through a graphical user interface. Claim 25 also includes transformative aspects of the technology objects, specifically, the storage of such objects in a data repository. In sum, Claim 25 meets the requirements of the "transformation" prong of *Bilski*'s "machine-or-transformation" test.

Finally, Claim 25 implicates *none* of the concerns the *Bilski* court had regarding "so-called business methods [that] involve the manipulation of even more abstract constructs such as legal obligations, organizational relationships, and business risks." *Id.* at 962. Rather, Claim 25 involves the manipulation of a business solution involving object-oriented data such as instantiated business process objects and instantiated technology objects—not abstract ideas such as legal obligations or the like.

In sum, method Claim 25 is tied to a particular machine or apparatus and transforms a particular article into a different state or thing, as required by the Federal Circuit in *In re Bilski*, and is thus patent eligible. Accordingly, Appellants respectfully request reversal of the final rejection of Claim 25 and its dependent claims under § 101. Claims 1 and 29, which recite a system and apparatus with practical applications, respectively, are directed to statutory subject matter under § 101, and Appellants respectfully request reversal of the final rejection of these claims as well as those claims depending therefrom.

B. Claim Rejections – 35 U.S.C. § 112

Claims 1, 3, 7, 15, 20, 21, 25, 28, 29, and 30 stand finally rejected under § 112, first paragraph, as failing to comply with the enablement requirement, because the Application purportedly fails to provide a definitive explanation of what is meant by "technology objects." The Answer, however, fails to refute the reasons provided in the Appeal Brief as to why the invention of the aforementioned claim is enabled specifically as to the term "technology objects." Appellants respectfully assert that one of ordinary skill in the art could make or use the

Applicant : Hu, et al.
Serial No. : 10/624,860
Filed : July 21, 2003
Page : 9 of 15

Attorney Docket No. 19797-0005001 / 2002P00234 US01

invention without undue experimentation based on the disclosures in the patent coupled with information known in the art. *See* M.P.E.P. § 2164.01 (citing *In re Wands*, 858 F.2d 731 (Fed. Cir. 1988); *United States v. Telectronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988)). Accordingly, Appellants request reversal of the final rejections of the claims under § 112, ¶ 1.

1. The Application is enabling with regard to "technology objects."

The Answer either ignores or misinterprets portions of the Application that enable the pending claims with regards to "technology objects." As noted in the Appeal Brief, the Application discloses that "All components, business processes, and technology solutions within the BSM system 101 may be constructed in an object-oriented concept. . . . [T]echnology components utilized in the BSM system 101 may be implemented as instances of a "technology object" type." Application at [0053]. "Technology components" are, for example, "Portals. Web Application Server, and Exchange Infrastructure / Integration Platform." *Id.* at [0055]. Moreover, a "technology object" exists for "each technology component and each configuration structure in the architectural landscape. The attributes for the components/structures are captured within the technology object. <u>Thus, the technology object clearly describes the functionality and its purpose in the architecture, as well as other specific information.</u>" *Id.* at [00288] (emphasis added). At least this portion of the Application teaches that data related to the described hardware and software can be encapsulated in a "technology object" (*e.g.*, a representation of a type of uniquely identifiable data (an object instance) described by a structural model), within an object modeling environment. Appellants respectfully submit that one of ordinary skill in the art would view at least these portions of the present Application as enabling with regards to the term "technology objects" specifically.

2. One of ordinary skill in the art could make and use "technology objects" without undue experimentation.

As noted above, the test for enablement is whether one of ordinary skill in the art could make or use the invention without undue experimentation based on the disclosures in the patent *coupled with information known in the art.* Further, it is an axiom of U.S. patent law that "[a] patent need not teach, and preferably omits, what is well known in the art." M.P.E.P. § 2164.01 (citing *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991); *Hybritech, Inc. v. Monoclonal*

Antibodies, Inc., 802 F.2d 1367, 1384 (Fed. Cir. 1986); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1463 (Fed. Cir. 1984)). Thus, rather than teaching those of skill in the art the basic concepts of object oriented programming and the instantiation (*i.e.*, creation), use, and manipulation of objects from data classes within such a programming technique, (as the Answer and Office Actions imply is *required*), Appellants properly omitted this teaching because the knowledge is well known in the art. Even a brief perusal of the state of the art at or near the filing date of the present Application demonstrates that those of ordinary skill would have no need for this information to make and use the invention as claimed. Indeed, the teachings of the Application, above, coupled with the knowledge in the art, reveal that one reasonably skilled in the art could make or use the invention without undue experimentation.

As one example of the level of skill in the art, U.S. Patent Application Publication No. 2004/0215544, assigned to International Business Machines Corp., discloses that:

> All of the properties of object-oriented programming, as well as related oriented object programming techniques, are well known to those skilled in the art, and will not be discussed in depth herein. From the description recited herein, a skilled programmer could implement the present invention.

[0044] (filed February 26, 2002). Further, U.S. Patent Application Publication No. 2005/0108206, filed on November 14, 2003, and assigned to Microsoft Corp., discloses that:

> A modern enterprise may have its data stored in several data stores, each of which may be of a different type. . . . It has become common to design and implement such applications with object-oriented techniques.

[0033]-[0034] (emphasis added).

In short, Appellants respectfully submit that those of ordinary skill in the art were clearly well-versed and knowledgeable about "objects" and object-oriented programming at least as of the Application's filing date of July 21, 2003. The Answer's statements that "there is still no explanation what is a 'technology object'" and "there exists no specific level of predictability in the art which could aid the examiner" are untenable in view of the Application's disclosure and the level of ordinary skill in the art as evidenced above. Thus, to the extent the Application does not provide a tutorial on object-oriented programming, Appellants respectfully submit that not

only would such an extraneous disclosure have been unnecessary, but also improper under the M.P.E.P. and U.S. patent laws. *See* M.P.E.P. § 2164.01.

Accordingly, for the reasons above and those contained in the Appeal Brief, Appellants respectfully request reversal of the final rejection of Claims , 3, 7, 15, 20, 21, 25, 28, 29, and 30 under § 112.

C. Claim Rejections – 35 U.S.C. § 102

Claim 29 stands finally rejected under § 102(b) as anticipated by *Fowler*. Appellants sufficiently demonstrated in the Appeal Brief that *Fowler* fails to teach or disclose multiple features of Claim 29, such as, for example, "prompting the user to select at least one instantiated business process object and one instantiated technology object" and "maintaining and modifying the business solution," as recited in this claim. Nothing in the Answer refutes Appellants' reasons for patentability as presented in the Appeal Brief. Accordingly, Appellants respectfully submit that Claim 29 is patentable over *Fowler* and request reversal of the final rejection under § 102.

In addition, Appellants note that the Answer, as did previous Office Actions, fails to account for the full breadth of Claim 29's feature of "prompting the user to select at least one instantiated business process object and one instantiated technology object." For instance, although the Answer asserts that *Fowler*'s "behavioral feature" and "structure feature" are equivalent (an assertion Appellants dispute), there is no indication in the Answer that *Fowler* teaches or suggests that such features are selected by a user upon being prompted.

Further, the Answer, as did prior Office Actions, fails to show that Claim 29's feature of **prompting** a user to select multiple objects is taught by *Fowler*. The Answer asserts that *Fowler*'s disclosure that a subtype may be created is analogous to this feature of Claim 29. *See* Answer at 10 (citing *Fowler* at 18). But "prompting a user to select" previously instantiated objects, in other words, objects that have already been *created* from a particular class, is distinct from creating a subtype anew,[5] which *Fowler* teaches.

---

[5]   In any event, Appellants dispute that *Fowler*'s "subtype" is either of an instantiated business process object or technology object.

As noted in the Appeal Brief, in order for a claim to be rejected as anticipated, the identical invention must be shown in as complete detail as is contained in the claim. *See Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The Answer fails to show that the identical invention of Claim 29 is taught or disclosed by *Fowler*. Accordingly, based on the aforementioned deficiencies in *Fowler*, as well as those illustrated in the Appeal Brief, Appellants respectfully request reversal of the final rejection of Claim 29 under § 102.

D.   Claim Rejections – 35 U.S.C. § 103

Claims 1 and 25 stand finally rejected under § 103(a) as being unpatentable over *Fowler* in view of *Chappel*. In addition to the reasons provided in the Appeal Brief as to why the *Fowler-Chappel* combination does not render obvious Claims 1 and 25, Appellants respectfully submit that these claims are patentable over *Fowler* in view of *Chappel* for additional reasons. For example, the Answer asserts that *Fowler* discloses the feature of "persisting the modified business solution for subsequent presentation through a graphical user interface," recited in Claim 1. *See* Answer at 12. Specifically, the Answer suggests that the claimed graphical user interface is shown by *Fowler*'s "various graphical or text based documents." *Id.* But *Fowler* does not actually suggest "various graphical or text based documents," to say nothing of a graphical user interface in which a modified business solution is presented. The portions of *Fowler* cited in the Answer do not suggest that any "graphical or text based documents" are created, contrary to that assertion made in the Answer. *See Fowler* at 1:21-24; 4:14-39 (cited at page 12 of the Answer).[6]

That *Fowler* fails to teach or suggest such a feature of Claim 1, for instance, is not surprising. As noted in the Appeal Brief, *Fowler* generally describes the Unified Modeling Language (UML) and its capabilities. *See generally Fowler*. UML is a standardized specification language for object modeling used, for example, to create an abstract model of a system. In other words, *Fowler* teaches techniques and best practices to software programmers for working in the UML. *Fowler* simply does not teach presenting data, especially a modified business solution, through a graphical user interface.

---

[6]   It is unclear which lines of these pages of *Fowler* that the Answer is referring to, but nonetheless, nothing on page 1 or 4 of *Fowler* suggest the creation or presentation of graphical or text based documents or, indeed, any data, through a graphical user interface.

Such a deficiency in *Fowler* is not inconsequential. For example, the Application discloses multiple interfaces of the claimed BSM that allow a user to view and/or manipulate data:

> The Business Process Engineer (BPE) Agent 204 is a user interface front-end of a Business Process Engineer application 216. The BPE Agent 204 may display (1) a tree structure that contains business process objects and their attributes and (2) a graphical window that shows different types of diagrams, which allow a user to graphically view and edit business processes.

> The Solution Technology Engineer (STE) Agent 210 is a user interface front-end of two application components, a Technology Component Identifier 240 and a Solution Management application 230. A user may perform classification definition and management as well as technology/architecture construction using the STE agent interface 210.

> The Methodology Management (MM) Agent 206 is a user interface front-end of a Methodology Management application 234. The MM Agent 206 may display a tree structure containing objects used by the BSM system 150 to model a Solution Determination Structure 308.

Application at [0064]-[0066] (emphasis added). The absence of such interfaces would render it more difficult for a user of the claimed BSM to receive the benefits associated with such a system, such as, for example, evaluating alternative solutions more efficiently. *See* Application at [0016]. Thus, the *Fowler-Chappel* combination fails to provide at least this advantageous feature.

Appellants respectfully submit that *Chappel* fails to account for the many deficiencies in *Fowler* as shown herein, as well as those discussed in the Appeal Brief. Accordingly, based on at least these significant differences between the claims and the cited combination of references, *see* M.P.E.P. § 2141(II)(A), Appellants request reversal of the final rejection of Claims 1 and 25 under § 103(a).

Claims 30 and 31 stand finally rejected under § 103(a) as being unpatentable over *Fowler* in view of *Bowman*. Claims 2, 3, 5-24, and 26-28 stand finally rejected under § 103(a) as being unpatentable over the combination of *Fowler* and *Chappel* in view of *Bowman*. With respect to the final rejection of Claims 2, 3, 5-24, 26-28, 30 and 31, neither the Answer nor prior Office Actions show that *Bowman* accounts for the deficiencies in *Fowler* and/or *Chappel* with regards

Applicant : Hu, et al.
Serial No. : 10/624,860
Filed : July 21, 2003
Page : 14 of 15

Attorney Docket No. 19797-0005001 / 2002P00234 US01

to independent Claims 1, 25, and 29. Nor does the Answer or prior Office Actions provide any reason that one of ordinary skill in the art would have modified *Bowman* to account for such deficiencies. Accordingly, and for the reasons given above and in the Appeal Brief regarding the patentability of Claims 1, 25, and 29, Appellants respectfully request reversal of the final rejection of Claims 2, 3, 5-24, 26-28, 30 and 31 under § 103(a).

CONCLUSION

For at least these reasons and the reasons stated in the Appeal Brief, as well as those clearly apparent, Appellants submit that the final rejection of Claims 1-3 and 5-25 should be reversed.

No charges are believed due at this time. If incorrect, please apply any charges or credits to Deposit Account No. 06-1050, referencing the attorney docket above.

Respectfully submitted,

Date: February 20, 2009   /Matthew K. Wernli/
                                              Matthew K. Wernli
                                              Reg. No. 63,173

Fish & Richardson P.C.
One Congress Plaza
111 Congress Avenue, Suite 810
Austin, TX 78701
Telephone: (512) 472-5070
Facsimile: (877) 769-7945